



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC-2013-0276]

RIN 3150-AJ32

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2014

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend the licensing, inspection, and annual fees charged to its applicants and licensees. The proposed amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended, which requires the NRC to recover through fees approximately 90 percent of its budget authority in Fiscal Year (FY) 2014, not including amounts appropriated for Waste Incidental to Reprocessing (WIR) and amounts appropriated for generic homeland security activities. These fees represent the cost of NRC services provided to applicants and licensees.

DATES: Submit comments by **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date. Because OBRA-90, as amended, requires that the NRC

collect the FY 2014 fees by September 30, 2014, requests for extension of the comment period will not be granted.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0276. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this proposed rule.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on accessing information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Arlette Howard, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, telephone: 301-415-1481, e-mail: Arlette.Howard@nrc.gov.

SUPPLEMENTARY INFORMATION:

- I. Obtaining Information and Submitting Comments.
- II. Background.
- III. Discussion.
- IV. Section-by-Section Analysis.
- V. Regulatory Flexibility Certification.
- VI. Regulatory Analysis.
- VII. Backfitting and Issue Finality.
- VIII. Plain Writing.
- IX. National Environmental Policy Act.
- X. Paperwork Reduction Act Statement.
- XI. Voluntary Consensus Standards.
- XII. Availability of Guidance.
- XIII. Availability of Documents.

I. Obtaining Information and Submitting Comments.

A. Obtaining Information.

Please refer to Docket ID NRC-2013-0276 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2013-0276.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search.](#)" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdresource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. For the convenience of the reader, the ADAMS accession numbers are provided in a table in the "Availability of Documents" section of this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments.

Please include Docket ID NRC-2013-0276 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should

state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background.

Over the past 40 years the NRC (and earlier as the Atomic Energy Commission (AEC), the NRC's predecessor agency), has assessed and continues to assess fees to applicants and licensees to recover the cost of its regulatory program. The NRC's cost recovery principles for fee regulation are governed by two major laws: 1) the Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 483 (a)); and 2) OBRA-90 (42 U.S.C. 2214), as amended. The NRC is required each year, under OBRA-90, as amended, to recover approximately 90 percent of its budget authority, not including amounts appropriated for WIR, and amounts appropriated for generic homeland security activities (non-fee items), through fees to the NRC licensees and applicants. The following discussion explains the various court decisions, congressional mandates, and Commission policy that form the basis for the NRC's current fee policy and cost recovery methodology, which in turn form the basis for this rulemaking.

Establishment of fee policy and cost recovery methodology.

In 1968, the AEC adopted its first license fee schedule in response to Title V of the IOAA. This statute authorized and encouraged Federal regulatory agencies to recover to the fullest extent possible costs attributable to services provided to identifiable recipients. The AEC established fees under part 170 of Title 10 of the *Code of Federal Regulations* (10 CFR) in two sections, §§ 170.21 and 170.31. Section 170.21 established a flat application fee for filing applications for nuclear power plant construction permits. Fees were set by a sliding scale depending on plant size; for construction permits and operating license fees, annual fees were

levied on holders of Commission operating licenses under 10 CFR part 50. Section 170.31 established application fees and annual fees for materials licenses. Between 1971 and 1973, the 10 CFR part 170 fee schedules were adjusted to account for increased costs resulting from expanded services, which included health and safety inspection services and manufacturing licenses and environmental and antitrust reviews. The annual fees assessed by the Commission began to include inspection costs, and the material fee schedule expanded from 16 to 28 categories for fee assessment. During this period, the schedules continued to be modified based on the Commission's policy to recover costs attributable to identifiable beneficiaries for the processing of applications, permits and licenses, amendments to existing licenses, and health and safety inspections relating to the licensing process.

On March 4, 1974, the U.S. Supreme Court rendered major decisions in two cases, *National Cable Television Association, Inc. v. United States*, 415 U.S. 36 (1974) and *Federal Power Commission v. New England Power Company*, 415 U.S. 345 (1974), regarding the charging of fees by Federal agencies. The Court held that the IOAA authorizes an agency to charge fees for special benefits rendered to identifiable persons measured by the "value to the recipient" of the agency service. The Court, therefore, invalidated the Federal Power Commission's annual fee rule because its fee structure assessed annual fees against the regulated industry at large without considering whether anyone had received benefits from any Commission services during the year in question. As a result of these decisions, the AEC promptly eliminated annual licensing fees and issued refunds to licensees, but left the remainder of the fee schedule unchanged.

In November 1974, the AEC published proposed revisions to its license fee schedule (39 FR 39734; November 11, 1974). The Commission reviewed public comments while simultaneously considering alternative approaches for the proper evaluation of expanding services and proper assessment based upon increasing costs of Commission services.

While this effort was underway, the Court of Appeals for the District of Columbia issued four opinions in fee cases—*National Cable Television Assoc. v. FCC*, 554 F.2d 1094 (D.C. Cir. 1976); *National Association of Broadcasters v. FCC*, 554 F.2d 1118 (D.C. Cir. 1976); *Electronic Industries Association v. FCC*, 554 F.2d 1109 (D.C. Cir. 1976); and *Capital Cities Communication, Inc. v. FCC*, 554 F.2d 1135 (D.C. Cir. 1976). These decisions invalidated the license fee schedules promulgated by the Federal Communications Commission, and they provided the AEC with additional guidance for the prompt adoption and promulgation of an updated licensee fee schedule.

On January 19, 1975, under the Energy Reorganization Act of 1974, the licensing and related regulatory functions of the AEC were transferred to the NRC. The NRC, prompted by recent court decisions concerning fee policy, developed new guidelines for use in fee development and the establishment of a new proposed fee schedule.

The NRC published a summary of guidelines as a proposed rule (42 FR 22149; May 2, 1977), and the Commission held a public meeting to discuss the summary of guidelines on May 12, 1977. A summary of the comments on the guidelines and the NRC's responses were published in the *Federal Register* (43 FR 7211; February 21, 1978).

The U.S. Court of Appeals for the Fifth Circuit upheld the Commission's fee guidelines on August 24, 1979, in *Mississippi Power and Light Co. v. U.S. Nuclear Regulatory Commission*, 601 F.2d 223 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980). This court held that --

1) The NRC had the authority to recover the full cost of providing services to identifiable beneficiaries;

2) The NRC could properly assess a fee for the costs of providing routine inspections necessary to ensure a licensee's compliance with the Atomic Energy Act of 1954, as amended, and with applicable regulations;

- 3) The NRC could charge for costs incurred in conducting environmental reviews required by the National Environmental Policy Act (42 U.S.C. 4321);
- 4) The NRC properly included the costs of uncontested hearings and of administrative and technical support services in the fee schedule;
- 5) The NRC could assess a fee for renewing a license to operate a low-level radioactive waste burial site; and
- 6) The NRC's fees were not arbitrary or capricious.

The NRC's current statutory requirement for cost recovery through fees.

In 1986, Congress passed the Consolidated Omnibus Budget Reconciliation Act (COBRA) (H.R. 3128), which required the NRC to assess and collect annual charges from persons licensed by the Commission. These charges, when added to other amounts collected by the NRC, totaled about 33 percent of the NRC's estimated budget. In response to this mandate and separate congressional inquiry on NRC fees, the NRC prepared a report on alternative approaches to annual fees and published the decision on annual fees for power reactor operating licenses in 10 CFR part 171 for public comment (51 FR 24078; July 1, 1986). The final rule (51 FR 33224; September 18, 1986) included a summary of the comments and the NRC's related responses. The decision was challenged in the D.C. Circuit Court of Appeals and upheld in its entirety in *Florida Power and Light Company v. United States*, 846 F.2d 765 (D.C. Cir. 1988), *cert. denied*, 490 U.S. 1045 (1989).

In 1987, the NRC retained the established annual and 10 CFR part 170 fee schedules in the *Federal Register* (51 FR 33224; September 18, 1986).

In 1988, the NRC was required to collect 45 percent of its budget authority through fees. The NRC published a proposed rule that included an hourly increase recommendation for public comment in the *Federal Register* (53 FR 24077; June 27, 1988). The NRC staff could not properly consider all comments received on the proposed rule. Therefore, on August 12, 1988,

the NRC published an interim final rule in the *Federal Register* (53 FR 30423). The interim final rule was limited to changing the 10 CFR part 171 annual fees.

In 1989, the Commission was required to collect 45 percent of its budget authority through fees. The NRC published a proposed fee rule in the *Federal Register* (53 FR 24077; June 25, 1988). A summary of the comments and the NRC's related responses was published in the *Federal Register* (53 FR 52632; December 28, 1988).

On November 5, 1990, with respect to 10 CFR part 171, the Congress passed OBRA-90, requiring that the NRC collect 100 percent of its budget authority, less appropriations from the Nuclear Waste Fund (NWF), through the assessment of fees. The OBRA-90 allowed the NRC to collect user fees for the recovery of the costs of providing special benefits to identifiable applicants and licensees in compliance with 10 CFR part 170 and under the authority of the IOAA (31 U.S.C. 9701). These fees recovered the cost of inspections, applications for new licenses and license renewals, and requests for license amendments. The OBRA-90 also allowed the NRC to recover annual fees under 10 CFR part 171 for generic regulatory costs not otherwise recovered through 10 CFR part 170 fees. In compliance with OBRA-90, the NRC adjusted its fee regulations in 10 CFR parts 170 and 171 to be more comprehensive without changing their underlying basis. The NRC published these regulations in a proposed rule for public comment in the *Federal Register* (54 FR 49763; December 1, 1989). The NRC held three public meetings to discuss the proposed changes and questions. A summary of comments and the NRC's related responses was published in the *Federal Register* (55 FR 21173; May 23, 1990).

In FYs 1991 – 2000, the NRC continued to comply with OBRA-90 requirements in its proposed and final rules. In 1991, the NRC's annual fee rule methodology was challenged and upheld by the D.C. Circuit Court of Appeals in *Allied Signal v. NRC*, 988 F.2d 146 (D.C. Cir. 1993).

The FY 2001 Energy and Water Development Appropriation Act amended OBRA-90 to decrease the NRC's fee recovery amount by 2 percent per year beginning in FY 2001, until the fee recovery amount was 90 percent in FY 2005.

The FY 2006 Energy and Water Development Appropriation Act extended this 90 percent fee recovery requirement for FY 2006. Section 637 of the Energy Policy Act of 2005 made the 90 percent fee recovery requirement permanent in FY 2007.

In addition to the requirements of OBRA-90, as amended, the NRC was also required to comply with the requirements of the Small Business Regulatory Enforcement Fairness Act of 1996. This Act encouraged small businesses to participate in the regulatory process, and required agencies to develop more accessible sources of information on regulatory and reporting requirements for small businesses and create a small entity compliance guide. The NRC, in order to ensure equitable fee distribution among all licensees, developed a fee methodology specifically for small entities that consisted of a small entity definition and the Small Business Administration's most common receipts-based size standards as described under the North American Industry Classification System (NAICS) identifying industry codes. The NAICS is the standard used by Federal statistical agencies to classify business establishments for the purposes of collecting, analyzing, and publishing statistical data related to the U.S. business economy. The purpose of this fee methodology was to lessen the financial impact on small entities through the establishment of a maximum fee at a reduced rate for qualifying licensees.

In FY 2009, the NRC computed the small entity fee based on a biennial adjustment of 39 percent, a fixed percent applied to the prior 2-year weighted average for all fee categories that have small entity licensees. The NRC also used 39 percent to compute the small entity annual fee for FY 2005, the same year the agency was required to recover only 90 percent of its budget authority. The methodology allowed small entity licensees to be able to predict changes in their fees in the biennial year based on the materials users' fees for the previous 2 years. Using a

2-year weighted average lessened the fluctuations caused by programmatic and budget variables within the fee categories for the majority of small entities. The agency also determined that there should be a lower-tier annual fee based on 22 percent of the maximum small entity annual fee to further reduce the impact of fees.

In FY 2011, the NRC applied this methodology, which would have resulted in an upper-tier small entity fee of \$3,300, an increase of 74 percent or \$1,400 from FY 2009, and a lower-tier small entity fee of \$700, an increase of 75 percent or \$300 from FY 2009. The NRC determined that implementing this increase would have a disproportionate impact upon small licensees and performed a trend analysis to calculate the appropriate fee tier levels. From FY 2000 to FY 2008, \$2,300 was the maximum upper-tier small entity fee and \$500 was the maximum lower-tier small entity fee. In order to lessen financial hardship for small entity licensees, the NRC concluded that for FY 2011 \$2,300 should be the maximum upper-tier small entity fee and \$500 should be the lower-tier small entity fee.

In FY 2013, the NRC staff performed a biennial review using the fee methodology developed in FY 2009 that applies a fixed percentage of 39 percent to the prior 2-year weighted average of materials users' fees. This methodology disproportionately impacted NRC's small licensees compared to other licensees; therefore, the NRC staff limited the increase to 21 percent, the same as FY 2011. The change resulted in a fee of \$2,800 for an upper-tier small entity and \$600 for a lower-tier small entity for FY 2013.

The NRC staff believes these fees are reasonable and provide relief to small entities while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them. For this fee rule, the small entity fees would remain unchanged. The next biennial review will be conducted in FY 2015.

III. Discussion.

In compliance with OBRA-90, as amended, and the AEA, the NRC proposes to amend its fee schedules for 10 CFR parts 170 and 171 to recover approximately 90 percent of its FY 2014 budget authority, less the amounts appropriated for WIR, the NWF, and generic homeland securities. The 10 CFR part 170 user fees, under the authority of the IOAA, recover the NRC's costs of providing special benefits to identifiable applicants and licensees. For example, the NRC assesses these fees to cover the costs of inspections, applications for new licenses and license renewals, and requests for license amendments. The 10 CFR part 171 annual fees recover generic regulatory costs not otherwise recovered through 10 CFR part 170 fees.

FY 2014 Fee Collection.

The NRC received total appropriations of \$1,055.9 million for FY 2014 based on the Consolidated Appropriations Act (Public Law 113-76), signed by President Obama on January 17, 2014. The 2014 proposed fee rule is based on the anticipated distribution of funds for agency needs at the time of its development. The final rule will be adjusted to reflect any changes to the distribution of the NRC's FY 2014 appropriation.

Based on OBRA-90, as amended, the NRC is required to recover \$930.7 million through 10 CFR part 170 licensing and inspections and 10 CFR part 171 annual fees for FY 2014. This amount excludes non-fee items for WIR activities totaling \$1.4 million, Inspector General services for the Defense Nuclear Facilities Safety Board totaling \$0.9 million and generic homeland security activities totaling \$21.8 million. The fee recovery amount is \$66.8 million more than the amount estimated for recovery in FY 2013, an increase of 7.7 percent. The FY 2014 fee recovery amount is further decreased by \$11.8 million to account for net collections as a result of billing adjustments (sum of unpaid current year invoices (estimated) minus payments

for prior year invoices). This leaves approximately \$918.9 million to be billed as fees in FY 2014 through 10 CFR part 170 licensing and inspection fees and 10 CFR part 171 annual fees.

Table I summarizes the proposed budget and fee recovery amounts for FY 2014. The FY 2013 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE I. - BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

	<u>FY 2013</u> <u>Final Rule</u>	<u>FY 2014</u> <u>Proposed</u> <u>Rule</u>
Total Budget Authority	\$985.6	\$1,055.9
Less Non-Fee Items	<u>-25.7</u>	<u>-21.8</u>
Balance	\$959.9	\$1,034.1
Fee Recovery Rate	<u>90%</u>	<u>90%</u>
Total Amount to be Recovered:	864.0	930.7
10 CFR Part 171 Billing Adjustments:		
Unpaid Current Year Invoices (estimated)	2.2	0.5
Less Current Year from Collections (Terminated - Operating Reactors)	-4.6	0
Less Payments Received in Current Year for Previous Year Invoices (estimated)	<u>-2.0</u>	<u>-12.3</u>
Subtotal	-4.4	-11.8
Amount to be Recovered through 10 CFR Parts 170 and 171 Fees	\$859.6	\$918.9

Less Estimated 10 CFR Part 170 Fees	<u>-327.1</u>	<u>-324.5</u>
Less Prior Year Unbilled 10 CFR Part 170 Fees	<u>-20.9</u>	<u>-0</u>
10 CFR Part 171 Fee Collections Required	\$511.6	\$594.4

Based on the 90 percent estimated recovery amount of \$930.7 million, the NRC estimates that \$324.5 million will be recovered from 10 CFR part 170 fees in FY 2014, which represents a 6.7 percent decrease as compared to 10 CFR part 170 collections of \$348 million for FY 2013.

Hourly Rate.

The NRC's hourly rate is used in assessing full cost fees for specific services provided, as well as flat fees for certain application reviews. The NRC is proposing to change the current hourly rate of \$272 to \$279 in FY 2014. This rate would be applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The FY 2014 hourly rate is 2.6 percent higher than the FY 2013 hourly rate of \$272. The increase in the hourly rate is due primarily to higher agency-budgeted resources and a decrease in the number of direct full-time equivalents (FTE) compared to FY 2013.

The NRC's hourly rate is derived by dividing the sum of recoverable budgeted resources for: 1) mission-direct program salaries and benefits; 2) mission-indirect program support; and 3) agency corporate support and the Inspector General (IG), by mission-direct FTE hours. The mission-direct FTE hours are the product of the mission-direct FTE multiplied by the hours per direct FTE. The only budgeted resources excluded from the hourly rate are those for contract activities related to mission-direct and fee-relief activities.

In FY 2013, the NRC used 1,351 hours per direct FTE, a decrease of 20 hours from FY 2012, to calculate the hourly fees. The NRC has reviewed data from its time and labor system

to determine if the annual direct hours worked per direct FTE estimate requires updating for the FY 2014 fee rule. Based on this review of the most recent data available, the NRC determined that 1,375 hours is the best estimate of direct hours worked annually per direct FTE. This estimate excludes all indirect activities such as training, general administration, and leave.

Table II shows the results of the hourly rate calculation methodology. The FY 2013 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE II. - HOURLY RATE CALCULATION

	<u>FY 2013</u> <u>Final Rule</u>	<u>FY 2014</u> <u>Proposed</u> <u>Rule</u>
Mission-Direct Program Salaries & Benefits	\$345.1	\$359.2
Mission-Indirect Program Support	\$19.7	\$21.0
Agency Corporate Support, and the IG	<u>\$474.8</u>	<u>\$486.0</u>
Subtotal	\$839.6	\$866.2
Less Offsetting Receipts	<u>-\$0.0</u>	<u>-\$0.0</u>
Total Budget Included in Hourly Rate (Millions of Dollars)	\$839.6	\$866.2
Mission-Direct FTE (Whole numbers)	2,285	2,254
Professional Hourly Rate (Total Budget Included in Hourly Rate divided by Mission-Direct FTE Hours) (Whole Numbers)	\$272	\$279

As shown in Table II, dividing the FY 2014 \$866.2 million budget amount included in the hourly rate by total mission-direct FTE hours (2,254 FTE times 1,375 hours) results in an hourly rate of \$279. The hourly rate is rounded to the nearest whole dollar.

Flat Application Fee Changes.

The NRC is proposing to adjust the current flat application fees in §§ 170.21 and 170.31 to reflect the revised hourly rate of \$279. These flat fees are calculated by multiplying the average professional staff hours needed to process the licensing actions by the proposed professional hourly rate for FY 2014. The agency estimates the average professional staff hours needed to process licensing actions every other year as part of its biennial review of fees performed in compliance with the Chief Financial Officers Act of 1990. The NRC last performed this review as part of the FY 2013 fee rulemaking. The higher hourly rate of \$279 is the primary reason for the increase in application fees.

The amounts of the materials licensing flat fees are rounded so that the fees would be convenient to the user and the effects of rounding would be minimal. Fees under \$1,000 are rounded to the nearest \$10, fees that are greater than \$1,000 but less than \$100,000 are rounded to the nearest \$100, and fees that are greater than \$100,000 are rounded to the nearest \$1,000.

The proposed licensing flat fees are applicable for fee categories K.1. through K.5. of § 170.21, and fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31. Applications filed on or after the effective date of the FY 2014 final fee rule would be subject to the revised fees in the final rule.

Application of Fee-Relief and Low-Level Waste (LLW) Surcharge.

The NRC proposes to assess a total of \$2.0 million to licensees' annual fees for both fee-relief activities and LLW surcharge based on their share of the fee recoverable budget authority. For this rulemaking, the NRC also proposes to establish rebaselined annual fees by changing the number of licensees in accordance to Pub. L. 112-10.

Specifically, the NRC would use its fee-relief surplus to decrease all licensees' annual fees, based on their percentage share of the budget. The NRC would apply the 10 percent of its budget that is excluded from fee recovery under OBRA-90, as amended (fee relief), to offset the total budget allocated for activities that do not directly benefit current NRC licensees. The budget for these fee-relief activities is totaled and then reduced by the amount of the NRC's fee relief. Any difference between the fee-relief and the budgeted amount of these activities results in a fee-relief adjustment (increase or decrease) to all licensees' annual fees, based on their percentage share of the budget, which is consistent with the existing fee methodology.

The FY 2014 budgetary resources for the NRC's fee-relief activities are \$102.2 million. The NRC's 10-percent fee-relief amount in FY 2014 is \$103.4 million, leaving a \$1.2 million surplus that would decrease all licensees' annual fees based on their percentage share of the budget. The FY 2014 budget for fee-relief activities increased from FY 2013 due to factors such as increased rulemaking activities for research and test reactors, agreement state travel, and a reduction in decommissioning billings under 10 CFR part 170.

Table III summarizes the fee-relief activities for FY 2014. The FY 2013 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE III. - FEE-RELIEF ACTIVITIES

[Dollars in millions]

<u>Fee-Relief Activities</u>	<u>FY 2013</u> <u>Budgeted</u> <u>Costs</u>	<u>FY 2014</u> <u>Budgeted</u> <u>Costs</u>
1. Activities not attributable to an existing NRC licensee or class of licensee:		
a. International activities	\$10.2	\$11.2
b. Agreement State oversight	\$10.3	\$12.6
c. Scholarships and Fellowships	\$16.4	\$18.9

d. Medical Isotope Production	\$3.5	\$3.1
2. Activities not assessed under 10 CFR part 170 licensing and inspection fees or 10 CFR part 171 annual fees based on existing law or Commission policy:		
a. Fee exemption for nonprofit educational institutions	\$10.2	\$11.9
b. Costs not recovered from small entities under 10 CFR 171.16(c)	\$7.7	\$8.4
c. Regulatory support to Agreement States	\$16.3	\$17.9
d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	\$13.9	\$17.2
e. <i>In Situ</i> leach rulemaking and unregistered general licensees	<u>\$1.3</u>	<u>\$1.0</u>
Total fee-relief activities	\$89.8	\$102.2
Less 10 percent of the NRC's total FY budget (less non-fee items)	<u>-\$96.0</u>	<u>-\$103.4</u>
Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees	-\$6.2	-\$1.2

Table IV shows how the NRC would allocate the \$1.2 million fee-relief assessment adjustment to each license fee class. As explained previously, the NRC would allocate this fee-relief adjustment to each license fee class based on the percent of the budget for that fee class compared to the NRC's total budget. The fee-relief surplus adjustment is subtracted from the required annual fee recovery for each fee class.

Separately, the NRC has continued to allocate the LLW surcharge based on the volume of LLW disposal of three classes of licenses: operating reactors, fuel facilities, and materials users. Because LLW activities support NRC licensees, the costs of these activities are recovered through annual fees. In FY 2014, this allocation percentage would remain the same as FY 2013 based on a recent review of data by fee class.

Table IV also shows the allocation of the LLW surcharge activity. For FY 2014, the total budget allocated for LLW activity is \$3.2 million. (Individual values may not sum to totals due to rounding.)

TABLE IV. - ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE,**FY 2014****[Dollars in millions]**

	LLW Surcharge		Fee-Relief Adjustment		Total
	<u>Percent</u>	<u>\$</u>	<u>Percent</u>	<u>\$</u>	<u>\$</u>
Operating Power Reactors	53.0	1.7	86.5	-1.1	0.6
Spent Fuel Storage/Reactor Decommissioning	---	---	3.6	0.0	0.0
Research and Test Reactors	---	---	0.3	0.0	0.0
Fuel Facilities	37.0	1.2	5.2	-0.1	1.1
Materials Users	10.0	0.3	2.8	-0.0	0.3
Transportation	---	---	0.5	-0.0	0.0
Uranium Recovery	---	---	<u>1.2</u>	<u>-0.0</u>	<u>0.0</u>
Total	100.0	3.2	100.0	-1.2	2.0

Annual Fee Policy Change.

The staff examined 10 CFR 171.15(a) regarding independent spent fuel storage installation (ISFSI) licenses and determined that the current regulations are inconsistent with how other classes of licensees are assessed annual fees based on operational status. Under 10 CFR part 171.15(a), licensees for new nuclear reactors under 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," may not operate a facility and are not assessed annual fees until the Commission determines that the acceptance criteria in a combined license have been met as stated under 10 CFR 52.103(g). However, licensees under 10 CFR part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste," that do not hold licenses under 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities," or 10 CFR part 52 must pay an annual fee regardless of operational status. This creates a regulatory inconsistency because the NRC's current fee regulations fail to consider

the Commission's requirement that 10 CFR part 72 licensees notify the Commission of their readiness to begin operations at least 90 days prior to the first storage of spent fuel, high-level waste, or reactor-related Greater than Class C waste in an ISFSI or a monitored retrievable storage installation.

In the cases of licensees under both 10 CFR part 72 and 10 CFR part 52, the Commission ultimately determines a licensee's operational status through established criteria that either requires a licensee to notify the Commission of its readiness to operate or the Commission's finding that acceptance criteria in the combined license have been met before operation of a facility. The OBRA-90, as amended, requires the NRC to fairly and equitably recover the costs of providing regulatory services in its collection of fees from licensees. Therefore, the NRC proposes to modify 10 CFR 171.15(a) to allow an ISFSI licensee to be charged an annual fee when the licensee has the ability to use or to derive benefit from the license; this change would mirror the practice for licensees under the power reactor and fuel cycle facility fee categories.

Revised Annual Fees.

The NRC is required to establish rebaselined annual fees based on Pub. L. 112-10, which includes updating the number of NRC licensees in the FY 2014 fee calculations. Therefore, the NRC proposes to revise its annual fees in §§ 171.15 and 171.16 for FY 2014 to recover approximately 90 percent of the NRC's FY 2014 budget authority, less non-fee amounts and the estimated amount to be recovered through 10 CFR part 170 fees. The estimated 10 CFR part 170 collections for this proposed rule total \$324.5 million, a decrease of \$23.4 million from the FY 2013 fee rule. The total amount to be recovered through annual fees for this proposed rule is \$594.4 million, an increase of \$82.8 million from the FY 2013 final rule. The required annual fee collection in FY 2013 was \$511.6 million.

The Commission has determined (71 FR 30721; May 30, 2006) that the agency should proceed with a presumption in favor of rebaselining when calculating annual fees each year. Under this method, the NRC's budget is analyzed in detail, and budgeted resources are allocated to fee classes and categories of licensees. The Commission expects that for most years there will be budgetary and other changes that warrant the use of the rebaselining method.

For FY 2014, the NRC's total fee recoverable budget, as mandated by law, is \$930.7 million, an increase of \$66.8 million compared to FY 2013. The FY 2014 budget was allocated to the appropriate fee class based on budgeted activities. As compared with the FY 2013 annual fees, the FY 2014 proposed rebaselined fees decrease for three classes - spent fuel storage/reactor and decommissioning, fuel facilities, and U.S. Department of Energy (DOE) Transportation Activities. The annual fees increase for four fee classes - operating reactors, research and test reactors, materials users, and uranium recovery licensees.

The factors affecting all annual fees include the distribution of budgeted costs to the different classes of licenses (based on the specific activities the NRC will perform in FY 2014), the estimated 10 CFR part 170 collections for the various classes of licenses, and allocation of the fee-relief surplus adjustment to all fee classes. The percentage of the NRC's budget not subject to fee recovery remains at 10 percent for FY 2014, the same as FY 2013.

Table V shows the rebaselined fees for FY 2014 for a representative list of categories of licensees. The FY 2013 amounts are provided for comparison purposes. (Individual values may not sum to totals due to rounding.)

TABLE V. - REBASELINED ANNUAL FEES

<u>Class/Category of Licenses</u>	<u>FY 2013</u> <u>Final Annual</u> <u>Fee</u>	<u>FY 2014</u> <u>Proposed</u> <u>Annual Fee</u>
Operating Power Reactors (Including Spent Fuel Storage/Reactor Decommissioning Annual Fee)	\$4,390,000	\$5,328,000
Spent Fuel Storage/Reactor Decommissioning	\$231,000	\$224,000
Research and Test Reactors (Nonpower Reactors)	\$81,600	\$84,500
High Enriched Uranium Fuel Facility	\$6,997,000	\$6,329,000
Low Enriched Uranium Fuel Facility	\$2,633,000	\$2,178,000
UF ₆ Conversion and Deconversion Facility	\$1,429,000	\$1,293,000
Conventional Mills	\$27,900	\$33,900
Typical Materials Users:		
Radiographers (Category 3O)	\$27,200	\$29,800
Well Loggers (Category 5A)	\$12,600	\$13,600
Gauge Users (Category 3P)	\$6,400	\$6,800
Broad Scope Medical (Category 7B)	\$32,900	\$35,700

The work papers that support this proposed rule show in detail the allocation of the NRC's budgeted resources for each class of licenses and how the fees are calculated. The work papers are available as indicated in Section XIII, Availability of Documents, of this document.

Paragraphs a. through h. of this section describe budgetary resources allocated to each class of licenses and the calculations of the rebaselined fees. Individual values in the tables presented in this section may not sum to totals due to rounding.

a. Fuel Facilities.

The FY 2014 budgeted costs to be recovered in the annual fees assessment to the fuel facility class of licenses (which includes licensees in fee categories 1.A.(1)(a), 1.A.(1)(b), 1.A.(2)(a), 1.A.(2)(b), 1.A.(2)(c), 1.E., and 2.A.(1) under § 171.16) are approximately \$29.1 million. This value is based on the full cost of budgeted resources associated with all activities that support this fee class, which is reduced by estimated 10 CFR part 170 collections and adjusted for allocated generic transportation resources and fee-relief. In FY 2014, the LLW surcharge for fuel facilities is added to the allocated fee-relief adjustment (see Table IV in Section III.B.1, “Application of Fee-Relief and Low-Level Waste Surcharge,” of this document). The summary calculations used to derive this value are presented in Table VI for FY 2014, with FY 2013 values shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE VI. - ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

<u>Summary Fee Calculations</u>	FY 2013 <u>Final</u>	FY 2014 <u>Proposed</u>
Total budgeted resources	\$50.7	\$47.2
Less estimated 10 CFR part 170 receipts	-\$19.5	-\$19.2
Net 10 CFR part 171 resources	\$31.2	\$28.0
Allocated generic transportation	+\$0.8	\$0.6

Fee-relief adjustment/LLW surcharge	+\$0.9	\$1.1
Billing adjustments	<u>-\$0.0</u>	<u>-\$0.6</u>
Total required annual fee recovery	\$32.9	\$29.1

The decrease in total budgeted resources for the fuel facilities fee class from FY 2013 to FY 2014 is primarily due to construction delays from the Fuel Cycle Oversight Process. The NRC allocates the total required annual fee recovery amount to the individual fuel facility licensees, based on the effort/fee determination matrix developed for the FY 1999 final fee rule (64 FR 31447; June 10, 1999). In the matrix included in the publicly-available NRC work papers, licensees are grouped into categories according to their licensed activities (i.e., nuclear material enrichment, processing operations, and material form) and the level, scope, depth of coverage, and rigor of generic regulatory programmatic effort applicable to each category from a safety and safeguards perspective. This methodology can be applied to determine fees for new licensees, current licensees, licensees in unique license situations, and certificate holders.

This methodology is adaptable to changes in the number of licensees or certificate holders, licensed or certified material and/or activities, and total programmatic resources to be recovered through annual fees. When a license or certificate is modified, it may result in a change of category for a particular fuel facility licensee, as a result of the methodology used in the fuel facility effort/fee matrix. Consequently, this change may also have an effect on the fees assessed to other fuel facility licensees and certificate holders. For example, if a fuel facility licensee amends its license/certificate (e.g., decommissioning or license termination) that results in it not being subject to 10 CFR part 171 costs applicable to the fee class, then the budgeted costs for the safety and/or safeguards components will be spread among the remaining fuel facility licensees/certificate holders.

The methodology is applied as follows. First, a fee category is assigned, based on the nuclear material and activity authorized by license or certificate. Although a licensee/certificate

holder may elect not to fully use a license/certificate, the license/certificate is still used as the source for determining authorized nuclear material possession and use/activity. Second, the category and license/certificate information are used to determine where the licensee/certificate holder fits into the matrix. The matrix depicts the categorization of licensees/certificate holders by authorized material types and use/activities.

Each year, the NRC's fuel facility project managers and regulatory analysts determine the level of effort associated with regulating each of these facilities. This is done by assigning, for each fuel facility, separate effort factors for the safety and safeguards activities associated with each type of regulatory activity. The matrix includes 10 types of regulatory activities, including enrichment and scrap/waste-related activities (see the work papers for the complete list). Effort factors are assigned as follows: one (low regulatory effort), five (moderate regulatory effort), and 10 (high regulatory effort). The NRC then totals separate effort factors for safety and safeguard activities for each fee category.

The effort factors for the various fuel facility fee categories are summarized in Table VII. The value of the effort factors shown, as well as the percent of the total effort factor for all fuel facilities, reflects the total regulatory effort for each fee category (not per facility). This results in spreading of costs to other fee categories. The Uranium Enrichment fee category factors have shifted with minimal increases and decreases between safety and safeguards factors compared to FY 2013.

**TABLE VII. – EFFORT FACTORS FOR FUEL FACILITIES,
FY 2014**

<u>Facility Type (fee category)</u>	<u>Number of Facilities</u>	<u>Effort Factors (percent of total)</u>	
		<u>Safety</u>	<u>Safeguards</u>
High-Enriched Uranium Fuel (1.A.(1)(a))	2	89 (38.5)	97 (49.2)

Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70 (30.3)	26 (13.2)
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	1	3 (1.3)	15 (7.6)
Hot Cell (1.A.(2)(c))	1	6 (2.6)	3 (1.5)
Uranium Enrichment (1.E)	2	51 (22.1)	49 (24.9)
UF ₆ Conversion and Deconversion (2.A.(1))	1	12 (5.2)	7 (3.6)

For FY 2014, the total budgeted resources for safety activities, before the fee-relief adjustment is made, are \$15.1 million. This amount is allocated to each fee category based on its percent of the total regulatory effort for safety activities. For example, if the total effort factor for safety activities for all fuel facilities is 100, and the total effort factor for safety activities for a given fee category is 10, that fee category will be allocated 10 percent of the total budgeted resources for safety activities. Similarly, the budgeted resources amount of \$12.9 million for safeguards activities is allocated to each fee category based on its percent of the total regulatory effort for safeguards activities. The fuel facility fee class' portion of the fee-relief adjustment, -\$0.1 million, is allocated to each fee category based on its percent of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The fee (rounded) for each facility is summarized in Table VIII.

TABLE VIII. - ANNUAL FEES FOR FUEL FACILITIES

<u>Facility Type (fee category)</u>	FY 2014 <u>Proposed</u> <u>Annual Fee</u>
High-Enriched Uranium Fuel (1.A.(1)(a))	\$6,329,000
Low-Enriched Uranium Fuel (1.A.(1)(b))	\$2,178,000

Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	\$1,225,000
Hot Cell (and others) (1.A.(2)(c))	\$613,000
Uranium Enrichment (1.E.)	\$3,403,000
UF ₆ Conversion and Deconversion (2.A.(1))	\$1,293,000

b. Uranium Recovery Facilities.

The total FY 2014 budgeted costs to be recovered through annual fees assessed to the uranium recovery class (which includes licensees in fee categories 2.A.(2)(a), 2.A.(2)(b), 2.A.(2)(c), 2.A.(2)(d), 2.A.(2)(e), 2.A.(3), 2.A.(4), 2.A.(5), and 18.B. under § 171.16) are approximately \$1.2 million. The derivation of this value is shown in Table IX, with FY 2013 values shown for comparison purposes.

**TABLE IX. - ANNUAL FEE SUMMARY CALCULATIONS
FOR URANIUM RECOVERY FACILITIES
[Dollars in millions]**

<u>Summary fee calculations</u>	FY 2013 <u>Final</u>	FY 2014 <u>Proposed</u>
Total budgeted resources	\$9.9	\$10.9
Less estimated 10 CFR part 170 receipts	<u>-\$8.9</u>	<u>-\$9.5</u>
Net 10 CFR part 171 resources	\$1.0	\$1.3
Allocated generic transportation	N/A	N/A
Fee-relief adjustment	-\$0.0	-\$0.0
Billing adjustments	<u>-\$0.0</u>	<u>-\$0.1</u>
Total required annual fee recovery	\$1.0	\$1.2

The increase in total budgeted resources and annual fees allocated to uranium recovery in FY 2014 is primarily due to an increase in environmental reviews, inspections, and licensing actions.

Since FY 2002, the NRC has computed the annual fee for the uranium recovery fee class by allocating the total annual fee amount for this fee class between the DOE and the other licensees in this fee class. The NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act (UMTRCA). The Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for the weapons program. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

In FY 2014, the annual fee assessed to DOE includes recovery of the costs specifically budgeted for the NRC's UMTRCA Title I and II activities, plus 10 percent of the remaining annual fee amount, including generic/other costs (minus 10 percent of the fee-relief adjustment), for the uranium recovery class. The NRC assesses the remaining 90 percent generic/other costs minus 90 percent of the fee-relief adjustment, to the other NRC licensees in this fee class that are subject to annual fees.

The costs to be recovered through annual fees assessed to the uranium recovery class are shown in Table X.

**TABLE X. - COSTS RECOVERED THROUGH ANNUAL FEES;
URANIUM RECOVERY FEE CLASS**

Summary of Costs:	FY 2014 Proposed Annual Fee
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses: UMTRCA Title I and Title II budgeted costs less 10 CFR part 170 receipts	\$ 774,185

10 percent of generic/other uranium recovery budgeted costs	\$42,009
10 percent of uranium recovery fee-relief adjustment	- <u>\$1,448</u>
Total Annual Fee Amount for DOE (rounded)	\$815,000
Annual Fee Amount for Other Uranium Recovery Licenses:	
90 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for Title I and Title II activities	\$378,082
90 percent of uranium recovery fee-relief adjustment	- <u>\$13,035</u>
Total Annual Fee Amount for Other Uranium Recovery Licenses	\$365,047

The DOE fee would increase by 16.4 percent in FY 2014 compared to FY 2013 due to increased budgetary resources for UMTRCA activities. Again, the annual fee for uranium recovery licensees would increase due to environmental reviews, inspections, and licensing actions.

The NRC will continue to use a matrix, which is included in the work papers (ADAMS Accession No. ML14064A394), to determine the level of effort associated with conducting the generic regulatory actions for the different (non-DOE) licensees in this fee class. The weights derived in this matrix are used to allocate the approximately \$378,082 annual fee amount to these licensees. The use of this uranium recovery annual fee matrix was established in the FY 1995 final fee rule (60 FR 32217; June 20, 1995). The FY 2014 matrix is described as follows.

First, the methodology identifies the categories of licenses included in this fee class (besides DOE). These categories are: conventional uranium mills and heap leach facilities; uranium *In Situ* Recovery (ISR) and resin ISR facilities mill tailings disposal facilities, as defined in Section 11e.(2) of the Atomic Energy Act (11e.(2) disposal facilities); and uranium water treatment facilities.

Second, the matrix identifies the types of operating activities that support and benefit these licensees. The activities related to generic decommissioning/reclamation are not included in the matrix because they are included in the fee-relief activities. Therefore, they are not a factor in determining annual fees. The activities included in the matrix are operations, waste operations, and groundwater protection. The relative weight of each type of activity is then determined, based on the regulatory resources associated with each activity. The operations, waste operations, and groundwater protection activities have weights of 0, 5, and 10, respectively, in the matrix.

Each year, the NRC determines the level of benefit to each licensee for generic uranium recovery program activities for each type of generic activity in the matrix. This is done by assigning, for each fee category, separate benefit factors for each type of regulatory activity in the matrix. Benefit factors are assigned on a scale of 0 to 10 as follows: 0 (no regulatory benefit), 5 (moderate regulatory benefit), and 10 (high regulatory benefit). These benefit factors are first multiplied by the relative weight assigned to each activity (described previously). The NRC then calculates total and per licensee benefit factors for each fee category. Therefore, these benefit factors reflect the relative regulatory benefit associated with each licensee and fee category.

Table XI displays the benefit factors per licensee and per fee category, for each of the non-DOE fee categories included in the uranium recovery fee class as follows:

TABLE XI. - BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

<u>Fee Category</u>	<u>Number of Licensees</u>	<u>Benefit Factor Per Licensee</u>	<u>Total Value</u>	<u>Benefit Factor Percent Total</u>
Conventional and Heap Leach mills (2.A.(2)(a))	1	150	150	9
Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b))	6	190	1,140	71
Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c))	1	215	215	13
11e.(2) disposal incidental to existing tailings sites (2.A.(4))	1	85	85	5
Uranium water treatment (2.A.(5))	1	25	25	2
Total	10	665	1,615	100%

Applying these factors to the approximately \$365,047 in budgeted costs to be recovered from non-DOE uranium recovery licensees results in the total annual fees for each fee category. The annual fee per licensee is calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category, as summarized in Table XII.

TABLE XII. - ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

(other than DOE)

<u>Facility Type (fee category)</u>	<u>FY 2014 Proposed</u>
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	<u>Annual Fee</u>
Conventional and Heap Leach mills (2.A.(2)(a))	\$33,900
Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b))	\$42,900
Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c))	\$48,600
11e.(2) disposal incidental to existing tailings sites (2.A.(4))	\$19,200
Uranium water treatment (2.A.(5))	\$5,700

c. Operating Power Reactors.

The total budgeted costs to be recovered from the power reactor fee class in FY 2014 in the form of annual fees is \$510.4 million, as shown in Table XIII. The FY 2013 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

**TABLE XIII. - ANNUAL FEE SUMMARY CALCULATIONS FOR
OPERATING POWER REACTORS
[Dollars in millions]**

<u>Summary Fee Calculations</u>	FY 2013 <u>Final</u>	FY 2014 <u>Proposed</u>
Total budgeted resources	\$734.7	\$799.3
Less estimated 10 CFR part 170 receipts	<u>-\$303.8</u>	<u>-\$280.4</u>
Net 10 CFR part 171 resources	\$430.9	\$518.9
Allocated generic transportation	\$1.3	\$1.1
Fee-relief adjustment/LLW surcharge	-\$3.4	\$0.6
Billing adjustment	<u>\$0.2</u>	<u>-\$10.2</u>
2 nd billing adjustment (terminated license)	<u>-\$4.6</u>	<u>\$0.0</u>
Total required annual fee recovery	\$424.2	\$510.4

The budgetary resources primarily increase in FY 2014 due to increased resources to support Fukushima Near-Term Task Force (NTTF) recommendations; Commission-directed high- and medium-priority rulemaking activities; the Force on Force program; and the maintenance, operation and eventual replacement of the Reactor Program System (RPS).

The annual fees for power reactors increase primarily as a result of decreased 10 CFR part 170 billings, the decline in current year licensing actions, delays in major design certification applications and combined operating licensing, and the shutdown of two operating reactors (San Onofre Nuclear Generating Station Units 2 and 3). The budgeted costs to be recovered through annual fees to power reactors are divided equally among the 100 power reactors licensed to operate, resulting in an FY 2014 annual fee of \$5,104,000 per reactor. Additionally, each power reactor licensed to operate would be assessed the FY 2014 spent fuel storage/reactor decommissioning annual fee of \$224,000. The total FY 2014 annual fee is \$5,328,000 for each power reactor licensed to operate. The annual fees for power reactors are presented in § 171.15.

d. Spent Fuel Storage/Reactors in Decommissioning.

For FY 2014, budgeted costs of \$27.5 million for spent fuel storage/reactor decommissioning would be recovered through annual fees assessed to 10 CFR part 50 power reactors, and to 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license. Those reactor licensees that have ceased operations and have no fuel onsite would not be subject to these annual fees. Table XIV shows the calculation of this annual fee amount. The FY 2013 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

**TABLE XIV. - ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL
STORAGE/REACTOR IN DECOMMISSIONING FEE CLASS**

[Dollars in millions]

<u>Summary Fee Calculations</u>	FY 2013 <u>Final</u>	FY 2014 <u>Proposed</u>
Total budgeted resources	\$33.4	\$32.7
Less estimated 10 CFR part 170 receipts	<u>-\$5.4</u>	<u>-\$5.4</u>
Net 10 CFR part 171 resources	\$28.0	\$27.3
Allocated generic transportation	\$0.6	\$0.6
Fee-relief adjustment	-\$0.2	\$0.0
Billing adjustments	<u>\$0.0</u>	<u>-\$0.4</u>
Total required annual fee recovery	\$28.4	\$27.5

The budgetary resources for this fee class are reduced in FY 2014 due to a decline in Commission-directed improvements for storage and transportation processes. The required annual fee recovery amount is divided equally among 123 licensees, resulting in an FY 2014 annual fee of \$224,000 per licensee.

e. Research and Test Reactors (Non-Power Reactors).

Approximately \$340,000 in budgeted costs would be recovered through annual fees assessed to the test and research reactor class of licenses for FY 2014. Table XV summarizes the annual fee calculation for the research and test reactors for FY 2014. The FY 2013 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

**TABLE XV. - ANNUAL FEE SUMMARY CALCULATIONS FOR
RESEARCH AND TEST REACTORS**

[Dollars in millions]

<u>Summary Fee Calculations</u>	FY 2013 <u>Final</u>	FY 2014 <u>Proposed</u>
Total budgeted resources	\$1.50	\$2.63
Less estimated 10 CFR part 170 receipts	<u>-\$1.19</u>	<u>-\$2.28</u>
Net 10 CFR part 171 resources	\$0.30	\$0.35
Allocated generic transportation	\$0.03	\$0.03
Fee-relief adjustment	-\$0.01	-\$0.04
Billing adjustments	<u>-\$0.00</u>	<u>-\$0.40</u>
Total required annual fee recovery	\$0.33	\$0.34

For FY 2014, budgetary resources for research and test reactors increase due to more emphasis on rulemaking activities to streamline license renewal processes. The annual fee for research and test reactors mainly increases due to increased budgetary resources. The required annual fee recovery amount is divided equally among the four research and test reactors subject to annual fees and results in an FY 2014 annual fee of \$84,500 for each licensee.

f. Rare Earth Facilities.

The agency does not anticipate receiving an application for a rare earth facility this fiscal year, so no budgeted resources are allocated to this fee class, and no annual fee would be published in FY 2014.

g. Materials Users.

For FY 2014, budget costs of \$33.2 million for material users would be recovered through annual fees assessed to 10 CFR parts 30, 40, and 70 licensees. Table XVI shows the calculation of the FY 2014 annual fee amount for materials users licensees. The FY 2013 values are shown for comparison. Note the following fee categories under § 171.16 are included in this fee class: 1.C., 1.D., 1.F., 2.B., 2.C. through 2.F., 3.A. through 3.S., 4.A. through 4.C., 5.A., 5.B., 6.A., 7.A. through 7.C., 8.A., 9.A. through 9.D., and 17. (Individual values may not sum to totals due to rounding.)

TABLE XVI. - ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

<u>Summary Fee Calculations</u>	FY 2013 <u>Final</u>	FY 2014 <u>Proposed</u>
Total budgeted resources	\$30.7	\$32.8
Less estimated 10 CFR part 170 receipts	<u>-\$1.2</u>	<u>-\$0.9</u>
Net 10 CFR part 171 resources	\$29.5	\$31.9
Allocated generic transportation	\$1.5	\$1.3
Fee-relief adjustment/LLW surcharge	\$0.2	\$0.3
Billing adjustments	<u>-\$0.0</u>	<u>-\$0.3</u>
Total required annual fee recovery	\$31.2	\$33.2

The total required annual fees to be recovered for materials licensees increase in FY 2014 mainly for oversight activities. To equitably and fairly allocate the \$33.2 million in FY 2014 budgeted costs to be recovered in annual fees assessed to the approximately 3,000

diverse materials users licensees, the NRC would continue to base the annual fees for each fee category within this class on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the license, this approach would continue to provide a proxy for allocating the generic and other regulatory costs to the diverse categories of licenses based on the NRC's cost to regulate each category. This fee calculation would also continue to consider the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

The annual fee for these categories of materials users' licenses is developed as follows:

$$\text{Annual fee} = \text{Constant} \times [\text{Application Fee} + (\text{Average Inspection Cost} / \text{Inspection Priority})] + \text{Inspection Multiplier} \times (\text{Average Inspection Cost} / \text{Inspection Priority}) + \text{Unique Category Costs}.$$

The constant is the multiple necessary to recover approximately \$23.8 million in general costs (including allocated generic transportation costs) and is 1.59 for FY 2014. The average inspection cost is the average inspection hours for each fee category multiplied by the hourly rate of \$279. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is the multiple necessary to recover approximately \$8.8 million in inspection costs, and is 2.4 for FY 2014. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2014, approximately \$238,500 in budgeted costs for the implementation of revised 10 CFR part 35, "Medical Use of Byproduct Material (unique costs)," has been allocated to holders of NRC human-use licenses.

The annual fee to be assessed to each licensee also includes a share of the fee-relief assessment of approximately \$34,000 allocated to the materials users fee class (see Section III.B.1, "Application of Fee-Relief and Low-Level Waste Surcharge," of this document), and for certain categories of these licensees, a share of the approximately \$319,000 surcharge costs allocated to the fee class. The annual fee for each fee category is shown in § 171.16(d).

h. Transportation.

Table XVII shows the calculation of the FY 2014 generic transportation budgeted resources to be recovered through annual fees. The FY 2013 values are shown for comparison. (Individual values may not sum to totals due to rounding.)

TABLE XVII. - ANNUAL FEE SUMMARY CALCULATIONS
FOR TRANSPORTATION
[Dollars in millions]

<u>Summary Fee Calculations</u>	FY 2013 <u>Final</u>	FY 2014 <u>Proposed</u>
Total budgeted resources	\$8.2	\$8.0
Less estimated 10 CFR part 170 receipts	<u>-\$2.7</u>	<u>-\$3.1</u>
Net 10 CFR part 171 resources	\$5.5	\$4.9

The NRC must approve any package used for shipping nuclear material before shipment. If the package meets NRC requirements, the NRC issues a Radioactive Material Package Certificate of Compliance (CoC) to the organization requesting approval of a package. Organizations are authorized to ship radioactive material in a package approved for use under the general licensing provisions of 10 CFR part 71, "Packaging and Transportation of Radioactive Material." The resources associated with generic transportation activities are distributed to the license fee classes based on the number of CoCs benefitting (used by) that fee class, as a proxy for the generic transportation resources expended for each fee class.

The total FY 2014 budgetary resources for generic transportation activities, including those to support DOE CoCs, is \$4.9 million. The decrease in 10 CFR part 171 resources in FY 2014 is primarily due to the winding down of 10 CFR parts 71 and 72 rulemaking activities

and increased 10 CFR part 170 billing activities. Generic transportation resources associated with fee-exempt entities are not included in this total. These costs are included in the appropriate fee-relief category (e.g., the fee-relief category for nonprofit educational institutions).

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC would recover generic transportation costs unrelated to DOE as part of existing annual fees for license fee classes. The NRC would continue to assess a separate annual fee under § 171.16, fee category 18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

The distribution of these resources to the license fee classes and DOE is shown in Table XVIII. The distribution is adjusted to account for the licensees in each fee class that are fee-exempt. For example, if four CoCs benefit the entire research and test reactor class, but only 4 of 31 research and test reactors are subject to annual fees, the number of CoCs used to determine the proportion of generic transportation resources allocated to research and test reactor annual fees equals $(4/31) \times 4$, or 0.5 CoCs.

**TABLE XVIII. - DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES,
FY 2014**

[Dollars in millions]

<u>License Fee Class/DOE</u>	<u>Number CoCs Benefiting Fee Class or DOE</u>	<u>Percentage of Total CoCs</u>	<u>Allocated Generic Transportation Resources</u>
Total	85.5	100.0	\$4.89
DOE	20.0	23.4	\$1.14
Operating Power Reactors	20.0	23.4	\$1.14

Spent Fuel Storage/Reactor			
Decommissioning	11.0	12.9	\$0.63
Research and Test Reactors	0.5	0.6	\$0.03
Fuel Facilities	11.0	12.9	\$0.63
Materials Users	23.0	26.9	\$1.32

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds and does not allocate these DOE-related resources to other licensees' annual fees, because these resources specifically support DOE. Note that DOE's annual fee includes a reduction for the fee-relief surplus adjustment (see Section III.B.1, Application of Fee-Relief and Low-Level Waste Surcharge, of this document), resulting in a total annual fee of \$1,084,000 for FY 2014. The annual fee decreases in FY 2014 are primarily due to the conclusion of 10 CFR parts 71 and 72 rulemaking activities and an increase in 10 CFR part 170 billings.

Administrative Changes.

The NRC is proposing the following eight administrative changes:

1) Amend Definition for "Research Reactor" under 10 CFR 170.3, "Definitions," to Correct Reference. A final rule was published in the *Federal Register* on August 1, 1968 (33 FR 10924), that added 10 CFR part 170 to the *Code of Federal Regulations*. The definitions section was contained in § 170.3 and included the definitions for "research reactor" and "testing facility." However, the definitions section also originally included paragraph designations of (a), (b), (c), etc. The definition for "research reactor" was paragraph (h) and referenced paragraph (m), which was the definition for "testing facility." In a final rule published on May 23, 1990 (55 FR 21179), the paragraph designations were removed and the definitions placed in alphabetical order. However, the reference contained in the definition for "research reactor" was not corrected to refer to the definition for "testing facility" and not "paragraph (m)." Therefore,

the NRC proposes to amend the definition for “research reactor” to remove the reference to paragraph (m), which no longer exists. The proposed definition would correctly reference the definition for “testing facility.”

2) Delete Language under 10 CFR Part 170.12, “Payment of Fees,” Which is Not Applicable to the Current Fleet of Licensees Regarding Deferred Application Costs. The NRC staff recently performed a query of the NRC’s cost accounting system and determined current installment payment plans between the NRC and licensees have installment payment plan duration periods for up to 3 years in FY 2014, and current language regarding application costs deferred before August 9, 1991, is no longer applicable. Therefore, the NRC proposes to modify paragraph (b)(3) and delete paragraphs (b)(5), (b)(6) and (b)(7) of this section.

3) Amend Language under 10 CFR 170.12, “Payment of Fees,” to Address Underpayment of Fees. The NRC proposes to modify 10 CFR 170.12 to include a provision to allow for the collection of any underpayment in fees resulting from an error by the NRC. This provision would provide clarity to licensees that the NRC must collect fees resulting from billing errors to satisfy the requirements of OBRA-90, as amended.

4) Modify Language under 10 CFR 170.31, “Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses,” to Avoid Duplicate Billing. As currently written, the regulations in this section could allow licensees in certain fee categories to be charged duplicate fees for identical activities in similar fee categories. Therefore, the NRC proposes to modify the descriptions for three fee categories in this section by adding footnotes for fee categories 2.B., 3.P., and 7.C. These footnotes would provide an exemption from other fee category codes with identical activities associated with the license and avoid duplicate billing.

5) Modify Language under 10 CFR 171.15, “Annual Fees: Reactor Licenses and Spent Fuel Storage Reactor Licenses,” to Correct the Types of Non-Power Reactors. The NRC proposes to modify the language under paragraphs (a) and (e) by replacing “and” with “or” to clarify that research reactors and test reactors are two types of non-power reactors.

6) Modify Language under 10 CFR 171.16, “Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC,” to Avoid Duplicate Billing. As currently written, the regulations in this section could allow licensees in certain fee categories to be charged duplicate fees for identical activities in similar fee categories. Therefore, the NRC proposes to modify the descriptions for three fee categories in this section by adding footnotes for fee categories 2.B., 3.P., and 7.C. These footnotes would provide an exemption from other fee category codes that have identical activities associated with the license and avoid duplicate billing.

7) Amend Language under 10 CFR 171.19, “Payment,” to Address Underpayment of Fees. The NRC proposes to modify 10 CFR 171.19 to include a provision to allow for the collection of any underpayment in fees resulting from an error by the NRC. This provision would provide clarity to licensees that the NRC must collect fees resulting from billing errors to satisfy the requirements of OBRA-90, as amended.

8) Add New Paragraph Regarding Filing Fee Exemptions Requests. The current placement of the language identifying the time period to file an exemption request under 10 CFR 171.11, “Exemptions,” implies that only one exemption criterion is subject to the filing period, when all exemption criteria are subject to same filing period. Therefore, the NRC proposes to remove the language currently under paragraph (b) concerning the filing period for fee exemption requests and move it to a new paragraph (a) to emphasize the time period is

required for all exemption requests filed by licensees with the NRC. Current paragraphs (a), (b), (c), and (d) would be redesignated as paragraphs (b), (c), (d), and (e), respectively.

FY 2014 Billing.

The NRC plans to publish the final fee rule no later than June 2014. The FY 2014 final fee rule will be a major rule as defined by the Congressional Review Act of 1996 (5 U.S.C. 801-808). Therefore, the NRC's fee schedules for FY 2014 will become effective 60 days after publication of the final rule in the *Federal Register*. Upon publication of the final rule, the NRC will send an invoice for the amount of the annual fees to reactor licensees, 10 CFR part 72 licensees, major fuel cycle facilities, and other licensees with annual fees of \$100,000 or more. For these licensees, payment is due on the effective date of the FY 2014 final rule. Because these licensees are billed quarterly, the payment amount due is the total FY 2014 annual fee less payments made in the first three quarters of the fiscal year.

Materials licensees with annual fees of less than \$100,000 are billed annually. Those materials licensees whose license anniversary date during FY 2014 falls before the effective date of the FY 2014 final rule will be billed for the annual fee during the anniversary month of the license at the FY 2013 annual fee rate. Those materials licensees whose license anniversary date falls on or after the effective date of the FY 2014 final rule will be billed for the annual fee at the FY 2014 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

IV. Section-by-Section Analysis.

The following paragraphs describe the specific changes proposed by this rulemaking.

10 CFR 170.3, Definitions.

The NRC proposes to amend the definition of “research reactor” to correctly reference the definition of “testing facility.”

10 CFR 170.12, Payments of Fees.

The NRC proposes to modify paragraph (b)(3) and delete paragraphs (b)(5), (b)(6), and (b)(7) based on the latest accounting cost system information, which deems the current language referencing application costs deferred before August 9, 1991, as obsolete. The NRC also proposes to add a new paragraph (g) to clarify that the NRC is authorized to collect any underpayment of fees from licensees to satisfy the requirements of OBRA-90, as amended.

10 CFR 170.20, Average Cost Per Professional Staff Hour.

The NRC proposes to revise this section to reflect the proposed hourly rate for FY 2014.

10 CFR 170.21, Schedule of Fees for Production or Utilization Facilities, Review of Standard Referenced Design Approvals, Special Projects, Inspections, and Import and Export Licenses.

The NRC proposes to revise fees for fee category code K. to reflect the FY 2014 proposed hourly rate for flat fee applications.

10 CFR 170.31, Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and eExport Licenses.

The NRC is proposing to revise the fee category description for 2.B. by adding footnotes 6, 7, and 8 to avoid duplicate billing and to provide exemptions of fees from fee category codes with identical requirements. The NRC is also proposing to revise the fee category descriptions for 3.P. and 7.C. by adding footnotes 9 and 10, respectively, for the same reasons.

10 CFR 171.11, Exemptions.

The NRC is proposing to redesignate paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e), respectively, add a new paragraph (a), and revise newly redesignated paragraph (c) to clarify the time period for filing exemption requests applies to all exemption criteria instead of one exemption criterion.

10 CFR 171.15, Annual Fees: Reactor Licenses and Independent Fuel Storage Licenses.

The NRC proposes to revise paragraph (a) to allow an ISFSI licensee to be charged an annual fee only when the licensee has the ability to use or to derive benefit from the license. The NRC proposes to further revise paragraph (a) by replacing “and” with “or” to clarify that research reactors and test reactors are two separate types of non-power reactors. The NRC proposes to revise paragraph (b)(1) to reflect the required FY 2014 annual fee to be collected from each operating power reactor by September 30, 2014. The NRC proposes to revise the introductory text of paragraph (b)(2) to reflect FY 2014 in reference to annual fees and fee relief adjustment. The NRC proposes to revise paragraph (c)(1) and the introductory text of paragraph (c)(2) to reflect the FY 2014 spent fuel storage/reactor decommissioning and spent fuel storage annual fee for 10 CFR part 50 licenses and 10 CFR part 72 licensees who do not

hold a 10 CFR part 50 license, and the FY 2014 fee relief adjustment. The NRC proposes to revise the introductory text of paragraph (d)(1) and paragraphs (d)(2) and (d)(3) to reflect the FY 2014 fee-relief adjustment for the operating reactor power class of licenses, the number of operating power reactors, and the FY 2014 fee relief adjustment for spent fuel storage reactor decommissioning class of licenses. The NRC proposes to revise paragraph (e) to reflect the FY 2014 annual fees for research reactors and test reactors. The NRC proposes to further revise paragraph (e) by replacing “and” with “or” to clarify that research reactors and test reactors or two separate types of non-power reactors.

10 CFR 171.16, Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC.

The NRC is proposing to revise paragraphs (d) and (e) to reflect FY 2014 annual fees and the FY 2014 fee-relief adjustment. The NRC is proposing to revise fee category code description to 2.B. to add footnotes 16, 17, and 18 to avoid duplicate billing and to provide an exemption of fees from fee category codes with identical requirements. The NRC is also proposing to revise fee category code descriptions 3.P. and 7.C. to add footnotes 19 and 20, respectively, for the same reasons.

10 CFR 171.19, Payment of Fees.

The NRC is proposing to add paragraph (f) to clarify that the NRC is authorized to collect any underpayment of fees from licensees to satisfy the requirements of OBRA-90, as amended.

V. Regulatory Flexibility Certification.

Section 604 of the Regulatory Flexibility Act requires agencies to perform an analysis that considers the impact of a rulemaking on small entities. The NRC prepared a FY 2013 biennial regulatory flexibility analysis in accordance with the FY 2001 final rule (66 FR 32467; June 14, 2001). This rule also stated the small entity fees will be reexamined every 2 years and in the same years the NRC conducts the biennial review of fees as required by the Office of Chief Financial Officer Act. For the FY 2013 final rule, small entity fees increased to \$2,800 for the maximum upper-tier small entity fee and increased to \$600 for the lower-tier small entity fee as a result of the biennial review, which factored in the number of increased hours for application reviews and inspections in the fee calculations. These fees remain unchanged for this proposed rule. The NRC's regulatory flexibility analysis for the FY 2013 final rule is available as indicated in Section XIII, Availability of Documents, of this document. The next small entity biennial review is scheduled for FY 2015.

VI. Regulatory Analysis.

Under OBRA-90, as amended, and the AEA, the NRC is required to recover 90 percent of its budget authority, or total appropriations of \$1,055.9 million, in FY 2014. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and more fee methodology guidelines through the establishment of 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy in order to ensure that the NRC continues to comply with the statutory requirements for cost recovery in OBRA-90 and the AEA.

In this rulemaking, the NRC continues this long-standing approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this rulemaking.

VII. Backfitting and Issue Finality.

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and that a backfit analysis is not required. A backfit analysis is not required because these amendments do not require the modification of, or addition to, systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

VIII. Plain Writing.

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

IX. National Environmental Policy Act.

The NRC has determined that this proposed rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this proposed rule.

IX. Paperwork Reduction Act.

This proposed rule does not contain any information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Public Protection Notification.

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XI. Voluntary Consensus Standards.

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed fee rule, the NRC is proposing to amend the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover approximately 90 percent of its budget authority in FY 2014, as required by OBRA-90, as amended. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XII. Availability of Guidance.

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the "Small Entity Compliance Guide" for the FY 2013 final fee rule. This document, which has

been relabeled for FY 2014, is available as indicated in Section XIII, Availability of Documents, of this document. The next compliance guide will be developed when the NRC completes the next small entity biennial review in FY 2015.

XIII. Availability of Documents.

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

DOCUMENT	ADAMS ACCESSION NO. / WEB LINK / FEDERAL REGISTER CITATION
FY 2014 Proposed Fee Rule Work Papers	ML14064A394
FY 2013 Regulatory Flexibility Analysis	ML13067A088
FY 2014 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide	ML14055A070
NUREG-1100, Volume 29, "Congressional Budget Justification: Fiscal Year 2014" (April 2013)	http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1100/v29/
NRC Form 526, Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171	http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf

Throughout the development of this rule, the NRC may post documents related to this rule, including public comments, on the Federal rulemaking Web site at <http://www.regulations.gov> under Docket ID NRC-2013-0276. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe:

- 1) Navigate to the docket folder NRC-2013-0276; 2) click the "Sign up for E-mail Alerts" link; and
- 3) enter your e-mail address and select how frequently you would like to receive e-mails (daily, weekly, or monthly).

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 170 and 171.

PART 170 - FEES FOR FACILITIES, MATERIALS IMPORT AND EXPORT LICENSES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. The authority citation for part 170 continues to read as follows:

Authority: Independent Offices Appropriations Act sec. 501 (31 U.S.C. 9701); Atomic Energy Act sec. 161(w) (42 U.S.C. 2201(w)); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Chief Financial Officers Act sec. 205 (31 U.S.C. 901, 902); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act secs. 623, Energy Policy

Act of 2005 sec. 651(e), Pub. L. 109-58, 119 Stat. 783 (42 U.S.C. 2201(w), 2014, 2021, 2021b, 2111).

2. In § 170.3, revise the definition “research reactor” to read as follows:

§ 170.3 Definitions.

* * * * *

Research reactor means a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of § 50.21(c) of this chapter for operation at a thermal power level of 10 megawatts or less, and which is not a *testing facility* as defined in this section.

* * * * *

3. In § 170.12, revise paragraph (b)(3), remove paragraphs (b)(5) through (7), and add paragraph (g).

The revision and addition read as follows:

§ 170.12 Payment of fees.

* * * * *

(b) * * *

(3) The NRC intends to bill each applicant or licensee at quarterly intervals for all accumulated costs for each application the applicant or licensee has on file for NRC review, until the review is completed.

* * * * *

(g) *Collection of underpayment of fees.* The NRC is entitled to collect any underpayment of fees as a result of an error by the NRC.

4. Revise § 170.20 to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the professional staff-hour rate of \$279 per hour.

5. In § 170.21, in the table, revise the fee category K to read as follows:

§ 170.21 Schedule of fees for production or utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses.

* * * * *

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

<u>Facility categories and type of fees</u>	<u>Fees^{1,2}</u>
* * * * *	
<p>K. Import and export licenses:</p> <p>Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110.</p> <p>1. Application for import or export of production or utilization facilities⁴ (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).</p> <p style="padding-left: 40px;">Application -- new license, or amendment; or license exemption request</p>	\$18,200
<p>2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a).</p> <p style="padding-left: 40px;">Application -- new license, or amendment; or license exemption request</p>	\$9,800
<p>3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.</p> <p style="padding-left: 40px;">Application -- new license, or amendment; or license exemption request</p>	\$4,500
<p>4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances.</p> <p style="padding-left: 40px;">Application -- new license, or amendment; or license exemption request</p>	\$3,400
<p>5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities.</p> <p style="padding-left: 40px;">Minor amendment to license</p>	\$1,400

¹ Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the *Code of Federal*

Regulations (e.g., 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

² Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect when the service was provided.

* * * * *

⁴ Imports only of major components for end-use at NRC-licensed reactors are authorized under NRC general import license in 10 CFR 110.27.

6. In § 170.31, revise the table to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

<u>Category of materials licenses and type of fees¹</u>	<u>Fee^{2, 3}</u>
1. Special nuclear material: A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities. (a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	Full Cost
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210]	Full Cost
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities. (a) Facilities with limited operations [Program Code(s): 21310, 21320]	Full Cost
(b) Gas centrifuge enrichment demonstration facilities	Full Cost

(c) Others, including hot cell facilities	Full Cost
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200]	Full Cost
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. ⁴ Application [Program Code(s): 22140]	\$1,300
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. ⁴ Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	\$2,600
E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200]	Full Cost
F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter. ⁴ [Program Code(s): 22155]	Full Cost
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [Program Code(s): 11400]	Full Cost
(2) Licenses for possession and use of source material in recovery operations such as milling, <i>in-situ</i> recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode. (a) Conventional and Heap Leach facilities [Program Code(s): 11100]	Full Cost
(b) Basic <i>In Situ</i> Recovery facilities [Program Code(s): 11500]	Full Cost
(c) Expanded <i>In Situ</i> Recovery facilities [Program Code(s): 11510]	Full Cost
(d) <i>In Situ</i> Recovery Resin facilities [Program Code(s):	

11550]	Full Cost
(e) Resin Toll Milling facilities [Program Code(s): 11555]	Full Cost
(f) Other facilities [Program Code(s): 11700]	Full Cost
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000]	Full Cost
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010]	Full Cost
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820]	Full Cost
B. Licenses which authorize the possession, use, and/or installation of source material for shielding. ^{6, 7, 8} Application [Program Code(s): 11210]	\$1,230
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. Application [Program Code(s): 11240]	\$6,900
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. Application [Program Codes(s): 11230, 11231]	\$2,000
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. Application [Program Code(s): 11710]	\$2,800
F. All other source material licenses. Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	\$2,800
3. Byproduct material: A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Application [Program Code(s): 03211, 03212, 03213]	\$13,100
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	

Application [Program Code(s): 03214, 03215, 22135, 22162]	\$3,900
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Application [Program Code(s): 02500, 02511, 02513]	\$4,900
D. [Reserved]	N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). Application [Program Code(s): 03510, 03520]	\$3,200
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03511]	\$6,500
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03521]	\$62,400
H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03254, 03255, 03257]	\$5,100
I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	

Application [Program Code(s): 03250, 03251, 03252, 03253, 03256]	\$11,500
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03240, 03241, 03243]	\$2,000
K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03242, 03244]	\$1,100
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	\$5,500
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. Application [Program Code(s): 03620]	\$3,700
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C. Application [Program Code(s): 03219, 03225, 03226]	\$7,400
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Application [Program Code(s): 03310, 03320]	\$4,100
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ⁹ Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130]	\$2,000

Q. Registration of a device(s) generally licensed under part 31 of this chapter. Registration	\$400
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section. ⁵ 1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified. Application [Program Code(s): 02700]	\$2,600
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4), or (5). Application [Program Code(s): 02710]	\$2,000
S. Licenses for production of accelerator-produced radionuclides. Application [Program Code(s): 03210]	\$13,200
4. Waste disposal and processing: A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]	Full Cost
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03234]	\$6,000
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03232]	\$5,000
5. Well logging: A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. Application [Program Code(s): 03110, 03111, 03112]	\$3,900

B. Licenses for possession and use of byproduct material for field flooding tracer studies. Licensing [Program Code(s): 03113]	Full Cost
6. Nuclear laundries: A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. Application [Program Code(s): 03218]	\$22,300
7. Medical licenses: A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Application [Program Code(s): 02300, 02310]	\$9,000
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ¹⁰ Application [Program Code(s): 02110]	\$8,700
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	\$3,400
8. Civil defense: A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. Application [Program Code(s): 03710]	\$2,600
9. Device, product, or sealed source safety evaluation: A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution. Application -- each device	\$5,400
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. Application -- each device	\$9,100
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution. Application -- each source	\$5,300
D. Safety evaluation of sealed sources containing byproduct	

material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel. Application -- each source	\$1,060
10. Transportation of radioactive material: A. Evaluation of casks, packages, and shipping containers. 1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost
2. Other Casks	Full Cost
B. Quality assurance program approvals issued under part 71 of this chapter. 1. Users and Fabricators. Application	\$4,200
Inspections	Full Cost
2. Users. Application	\$4,200
Inspections	Full Cost
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost
11. Review of standardized spent fuel facilities.	Full Cost
12. Special projects: Including approvals, pre-application/licensing activities, and inspections. Application [Program Code: 25110]	Full Cost
13. A. Spent fuel storage cask Certificate of Compliance.	Full Cost
B. Inspections related to storage of spent fuel under § 72.210 of this chapter.	Full Cost
14. A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including MMLs. Application [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200]	Full Cost
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost
15. Import and Export licenses: Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.). A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b). Application -- new license, or amendment; or license exemption request	\$18,200
B. Application for export or import of nuclear material, including	

<p>radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.).</p> <p>Application -- new license, or amendment; or license exemption request</p>	\$9,800
<p>C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.</p> <p>Application -- new license, or amendment; or license exemption request</p>	\$4,500
<p>D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances.</p> <p>Application -- new license, or amendment; or license exemption request.</p>	\$3,400
<p>E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities.</p> <p>Minor amendment</p>	\$1,400
<p>Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in Appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).</p> <p><i>Category 1 (Appendix P, 10 CFR Part 110) Exports:</i></p> <p>F. Application for export of Appendix P Category 1 materials requiring Commission review (e.g. exceptional circumstance review under 10 CFR 110.42(e)(4)) and to obtain government-to-government consent for this process. For additional consent see 15.I.).</p> <p>Application -- new license, or amendment; or license exemption request</p>	\$15,400
<p>G. Application for export of Appendix P Category 1 materials requiring Executive Branch review and to obtain government-to-government consent for this process. For additional consents see 15. Application -- new license, or amendment; or license exemption request</p>	\$8,900
<p>H. Application for export of Appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see 15.I.</p> <p>Application -- new license, or amendment; or license</p>	

exemption request	\$6,700
I. Requests for each additional government-to-government consent in support of an export license application or active export license. Application -- new license, or amendment; or license exemption request	\$280
<i>Category 2 (Appendix P, 10 CFR Part 110) Exports:</i> J. Application for export of Appendix P Category 2 materials requiring Commission review (e.g. exceptional circumstance review under 10 CFR 110.42(e)(4)). Application -- new license, or amendment; or license exemption request	\$15,400
K. Applications for export of Appendix P Category 2 materials requiring Executive Branch review. Application -- new license, or amendment; or license exemption request	\$8,900
L. Application for the export of Category 2 materials. Application -- new license, or amendment; or license exemption request	\$5,600
M. [Reserved]	N/A
N. [Reserved]	N/A
O. [Reserved]	N/A
P. [Reserved]	N/A
Q. [Reserved]	N/A
<i>Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):</i> R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment	\$1,400
16. Reciprocity: Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20. Application	\$1,900
17. Master materials licenses of broad scope issued to Government agencies. Application [Program Code(s): 03614]	Full Cost

18. Department of Energy.	
A. Certificates of Compliance. Evaluation of casks, 11 packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities.	Full Cost

¹ *Types of fees* - Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

² Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

³ Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

⁴ Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

⁵ Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

⁶ Licensees paying fees under 3.O. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

⁷ Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

⁸ Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

⁹ Licensees paying fees under 3.N. are not subject to paying fees under 3.P. for calibration or leak testing services authorized on the same license.

¹⁰ Licensees paying fees under 7.B. are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

**PART 171 -- ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES
AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF
COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS
AND GOVERNMENT AGENCIES LICENSED BY THE NRC**

7. The authority citation for part 171 continues to read as follows:

Authority: Consolidated Omnibus Budget Reconciliation Act sec. 7601, Pub. L. 99-272, as amended by sec. 5601, Pub. L. 100-203, as amended by sec. 3201, Pub. L. 101-239, as amended by sec. 6101, Pub. L. 101-508, as amended by sec. 2903a, Pub. L. 102-486 (42 U.S.C. 2213, 2214), and as amended by Title IV, Pub. L. 109-103 (42 U.S.C. 2214); Atomic Energy Act sec. 161(w), 223, 234 (42 U.S.C. 2201(w), 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005 sec. 651(e), Pub. L. 109-58 (42 U.S.C. 2014, 2021, 2021b, 2111).

8. In § 171.11, redesignate paragraphs (a) through (d) as paragraphs (b) through (e), respectively, add a new paragraph (a), and revise newly redesignated paragraph (c) to read as follows:

§ 171.11 Exemptions.

(a) All requests for exemptions must be filed with the NRC within 90 days from the effective date of the final rule establishing the annual fees for which the exemption is sought in order to be considered. Absent extraordinary circumstances, any exemption requests filed beyond that date will not be considered. The filing of an exemption request does not extend the date on which the bill is payable. Only timely payment in full ensures avoidance of interest and penalty charges. If a partial or full exemption is granted, any overpayment will be refunded. Requests for clarification of or questions relating to an annual fee bill must also be filed within 90 days from the date of the initial invoice to be considered.

* * * * *

(c) The Commission may, upon application by an interested person or on its own initiative, grant an exemption from the requirements of this part that it determines is authorized by law or otherwise in the public interest.

* * * * *

9. In § 171.15, revise paragraphs (a) and (b)(1), paragraph (b)(2) introductory text, paragraph (c)(1), paragraphs (c)(2) introductory text and (d)(1) introductory text, and paragraphs (d)(2), (d)(3), and (e) to read as follows:

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

(a) Each person holding an operating license for a power, test, or research reactor; each person holding a combined license under part 52 of this chapter after the Commission has

made the finding under 10 CFR 52.103(g); each person holding a part 50 or part 52 power reactor license that is in decommissioning or possession only status, except those that have no spent fuel onsite; and each person holding a part 72 license who does not hold a part 50 or part 52 license and provides notification in accordance with 10 CFR 72.80(g), shall pay the annual fee for each license held during the Federal fiscal year in which the fee is due. This paragraph does not apply to test or research reactors exempted under § 171.11(a).

(b)(1) The FY 2014 annual fee for each operating power reactor which must be collected by September 30, 2014, is \$5,328,000.

(2) The FY 2014 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (fee-relief adjustment). The activities comprising the spent storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2014 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2014 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2014 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is \$224,000.

(2) The FY 2014 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section) and a fee-relief adjustment. The activities comprising the FY 2014 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities

comprising the FY 2014 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) The fee-relief adjustment allocated to annual fees includes a surcharge for the activities listed in paragraph (d)(1)(i) of this section, plus the amount remaining after total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (d)(1)(iii) of this section are reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (d)(1)(ii) and (d)(1)(iii) of this section for a given FY, annual fees will be reduced. The activities comprising the FY 2014 fee-relief adjustment are as follows:

* * * * *

(2) The total FY 2014 fee-relief adjustment allocated to the operating power reactor class of licenses is a \$621,500 fee-relief surplus, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2014 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately a \$6,094 fee relief surplus. This amount is calculated by dividing the total operating power reactor fee-relief surplus adjustment, \$621,500 by the number of operating power reactors (100).

(3) The FY 2014 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is a -\$44,500 fee-relief assessment. The FY 2014 spent fuel storage/reactor decommissioning fee-relief adjustment to be assessed to each operating power reactor, each power reactor in decommissioning or possession-only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold

a 10 CFR part 50 license, is a -\$361 fee-relief assessment. This amount is calculated by dividing the total fee-relief adjustment costs allocated to this class by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

(e) The FY 2014 annual fees for licensees authorized to operate a research or test (nonpower) reactor licensed under part 50 of this chapter, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor	\$84,500
Test reactor	\$84,500

10. In § 171.16, revise paragraphs (d) and (e) introductory text to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(d) The FY 2014 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2014 fee-relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2014 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in the following table:

SCHEDULE OF MATERIALS ANNUAL FEES

AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

<u>Category of materials licenses</u>	<u>Annual fees</u> ^{1, 2, 3}
1. Special nuclear material:	
A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities. (a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	\$6,329,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210]	\$2,178,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities. (a) Facilities with limited operations [Program Code(s): 21310, 21320]	N/A ⁵
(b) Gas centrifuge enrichment demonstration facilities	\$1,225,000
(c) Others, including hot cell facilities	\$613,000
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200]	N/A ¹¹
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. ¹⁵ [Program Code(s): 22140]	\$3,800
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. ¹⁵ [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	\$7,400
E. Licenses or certificates for the operation of a uranium enrichment facility [Program Code(s): 21200]	\$3,403,000
F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter. ¹⁵ [Program Code: 22155]	\$7,500
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [Program Code: 11400]	\$1,293,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium,	

including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities [Program Code(s): 11100]	\$33,900
(b) Basic <i>In Situ</i> Recovery facilities [Program Code(s): 11500]	\$42,900
(c) Expanded <i>In Situ</i> Recovery facilities [Program Code(s): 11510]	\$48,600
(d) <i>In Situ</i> Recovery Resin facilities [Program Code(s): 11550]	\$0
(e) Resin Toll Milling facilities [Program Code(s): 11555]	N/A ⁵
(f) Other facilities ⁴ [Program Code(s): 11700]	N/A ⁵
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000]	N/A ⁵
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010]	\$19,200
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820]	\$5,700
B. Licenses that authorize possession, use, and/or installation of source material for shielding. ^{16, 17, 18} [Program Code: 11210]	\$3,300
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	\$12,500
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter [Program Code(s): 11230 and 11231]	\$5,100
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	\$7,800
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	\$8,600
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03211, 03212, 03213]	\$55,100
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing	

or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03214, 03215, 22135, 22162]	\$13,800
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). [Program Code(s): 02500, 02511, 02513]	\$20,200
D. [Reserved]	N/A ⁵
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520]	\$9,500
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511]	\$13,900
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521]	\$127,900
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255]	\$10,700
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03256]	\$20,800
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243]	\$5,100
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for	

distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244]	\$4,100
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	\$17,500
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620]	\$10,000
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. [Program Code(s): 03219, 03225, 03226]	\$18,000
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license [Program Code(s): 03310, 03320]	\$29,800
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ¹⁹ [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	\$6,800
Q. Registration of devices generally licensed under part 31 of this chapter	N/A ¹³
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section: ¹⁴ 1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	\$9,600
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5) [Program Code(s): 02710]	\$9,200
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	\$33,000
4. Waste disposal and processing: A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]	N/A ⁵
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to	

receive or dispose of the material [Program Code(s): 03234]	\$21,100
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03232]	\$16,700
5. Well logging: A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies [Program Code(s): 03110, 03111, 03112]	\$13,600
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	N/A ⁵
6. Nuclear laundries: A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218]	\$44,400
7. Medical licenses: A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. [Program Code(s): 02300, 02310]	\$23,800
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ⁹ [Program Code(s): 02110]	\$35,700
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ^{9, 20} [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	\$9,900
8. Civil defense: A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities [Program Code(s): 03710]	\$9,600
9. Device, product, or sealed source safety evaluation: A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear	

material, except reactor fuel devices, for commercial distribution	\$8,600
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	\$14,500
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	\$8,400
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	\$1,700
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	N/A ⁶
2. Other Casks	N/A ⁶
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	N/A ⁶
2. Users	N/A ⁶
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	N/A ⁶
11. Standardized spent fuel facilities	N/A ⁶
12. Special Projects [Program Code(s): 25110]	N/A ⁶
13. A. Spent fuel storage cask Certificate of Compliance	N/A ⁶
B. General licenses for storage of spent fuel under 10 CFR 72.210	N/A ¹²
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs) [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200]	N/A ⁷
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	N/A ⁷
15. Import and Export licenses	N/A ⁸
16. Reciprocity	N/A ⁸
17. Master materials licenses of broad scope issued to Government agencies [Program Code(s): 03614]	\$384,000

18. Department of Energy:	
A. Certificates of Compliance	\$1,084,000 ¹⁰
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	\$815,000

¹ Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 2012, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

² Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

³ Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the *Federal Register* for notice and comment.

⁴ Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

⁵ There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

⁶ Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

⁷ Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

⁸ No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

⁹ Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.B. or 7.C.

¹⁰ This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

¹¹ See § 171.15(c).

¹² See § 171.15(c).

¹³ No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

¹⁴ Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

¹⁵ Licensees paying annual fees under category 1.A., 1.B., and 1.E. are not subject to the annual fees for categories 1.C., 1.D., and 1.F. for sealed sources authorized in the license.

¹⁶ Licensees paying fees under 3.O. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

¹⁷ Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

¹⁸ Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

¹⁹ Licensees paying fees under 3.N. are not subject to paying fees under 3.P. for calibration or leak testing services authorized on the same license.

²⁰ Licensees paying fees under 7.B. are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

(e) The fee-relief adjustment allocated to annual fees includes the budgeted resources for the activities listed in paragraph (e)(1) of this section, plus the total budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section, as reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section for a given FY, a negative fee-relief adjustment (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2014 fee-relief adjustment are as follows:

* * * * *

11. In § 171.19, add paragraph (f) to read as follows:

§ 171.19 Payment.

* * * * *

(f) The NRC is entitled to collect any underpayment of fees as a result of an error by the NRC.

Dated at Rockville, Maryland, this 31st day of March, 2014.

For the Nuclear Regulatory Commission.

J. E. Dyer,
Chief Financial Officer.

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